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6 **BEFORE THE**  
7 **BOARD OF PHARMACY**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 4220

11 **AMANDALINA MARIE PADILLA**  
12 **83082 Via Venecia**  
13 **Indio, CA 92201**

**DEFAULT DECISION AND ORDER**

14 **Pharmacy Technician Registration**  
15 **No. TCH 87325**

[Gov. Code, §11520]

Respondent.

16 **FINDINGS OF FACT**

17 1. On or about May 4, 2012, Complainant Virginia Herold, in her official capacity as the  
18 Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation  
19 No. 4220 against Amandalina Marie Padilla (Respondent) before the Board of Pharmacy.  
(Accusation attached as Exhibit A.)

20 2. On or about November 1, 2008, the Board of Pharmacy (Board) issued Pharmacy  
21 Technician Registration No. TCH 87325 to Respondent. The Pharmacy Technician Registration  
22 expired on January 31, 2012, and has not been renewed. Business and Professions Code section  
23 118, subdivision (b) provides that the suspension, expiration, surrender, or cancellation of a  
24 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
25 period within which the license may be renewed, restored, reissued or reinstated.

26 3. On or about May 14, 2012, Respondent was served by Certified and First Class Mail  
27 copies of the Accusation No. 4220, Statement to Respondent, Notice of Defense, Request for  
28 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to Business and Professions Code section 4100  
2 and California Code of Regulations, title 16, section 1704, is required to be reported and  
3 maintained with the Board. Respondent's address of record was and is:

4 83082 Via Venecia  
5 Indio, CA 92201

6 4. Service of the Accusation was effective as a matter of law under the provisions of  
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
8 124.

9 5. On or about May 16, 2012, "Yareth Villagomez" signed the Domestic Return Receipt  
10 on behalf of Respondent indicating the Accusation served by certified mail was received.

11 6. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
13 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
14 of the accusation not expressly admitted. Failure to file a notice of defense shall  
15 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
16 may nevertheless grant a hearing.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4220.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the  
21 hearing, the agency may take action based upon the respondent's express admissions  
22 or upon other evidence and affidavits may be used as evidence without any notice to  
23 respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Board finds  
25 Respondent is in default. The Board will take action without further hearing and, based on the  
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
28 file at the Board's offices regarding the allegations contained in Accusation No. 4220, finds that  
the charges and allegations in Accusation No. 4220, are separately and severally, found to be true  
and correct by clear and convincing evidence.

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1           10. Taking official notice of its own internal records, pursuant to Business and  
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
3 and Enforcement is \$642.50 as of June 7, 2012.

4                                   **DETERMINATION OF ISSUES**

5           1. Based on the foregoing findings of fact, Respondent Amandalina Marie Padilla has  
6 subjected her Pharmacy Technician Registration No. TCH 87325 to discipline.

7           2. The agency has jurisdiction to adjudicate this case by default.

8           3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
9 Registration based upon the following violations alleged in the Accusation which are supported  
10 by the Default Decision Investigatory Evidence Packet in this case:

11               a. Respondent has subjected her pharmacy technician registration to discipline  
12 under sections 490 and 4301, subdivision (l) of the Code in that on or about November 8, 2011, in  
13 a criminal proceeding entitled *People of the State of California v. Amandalina Marie Padilla*, in  
14 Riverside County Superior Court, case number INF1101755, Respondent was convicted on her  
15 plea of guilty to violating Penal Code section 368, subdivision (e), caretaker embezzlement from  
16 an elderly person, a felony crime that is substantially related to the qualifications, duties, and  
17 functions of a pharmacy technician.

18               b. Respondent has subjected her pharmacy technician registration to disciplinary  
19 action under section 4301, subdivision (f) of the Code in that while employed as a caretaker for  
20 an elderly disabled woman, Respondent entered the woman's residence and intentionally stole  
21 multiple pieces of personal property, and approximately \$1,600 from the woman's bank account,  
22 acts involving moral turpitude, dishonesty, fraud, deceit and corruption.

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**ORDER**

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 87325, heretofore issued to Respondent Amandalina Marie Padilla, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on September 14, 2012.

It is so ORDERED August 15, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By 

STANLEY C. WEISSER  
Board President

DOJ Matter ID: SD2011801852

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
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2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 State Bar No. 101336  
AMANDA DODDS  
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6 San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4220

12 **AMANDALINA MARIE PADILLA**  
13 **83082 Via Venecia**  
14 **Indio, CA 92201**

**A C C U S A T I O N**

15 **Pharmacy Technician Registration**  
**No. TCH 87325**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about November 1, 2008, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 87325 to Amandalina Marie Padilla (Respondent). The Pharmacy  
24 Technician Registration expired on January 31, 2012.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
27 Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4300, subdivision (a) of the Code states “Every license issued may be suspended or revoked.”

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”

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1 (4) Whether the licensee has complied with all terms of parole, probation,  
2 restitution or any other sanctions lawfully imposed against the licensee.

3 (5) Evidence, if any, of rehabilitation submitted by the licensee.

4 11. California Code of Regulations, title 16, section 1770, states:

5 For the purpose of denial, suspension, or revocation of a personal or facility  
6 license pursuant to Division 1.5 (commencing with Section 475) of the Business and  
7 Professions Code, a crime or act shall be considered substantially related to the  
8 qualifications, functions or duties of a licensee or registrant if to a substantial degree  
it evidences present or potential unfitness of a licensee or registrant to perform the  
functions authorized by his license or registration in a manner consistent with the  
public health, safety, or welfare.

#### 9 COSTS

10 12. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
11 administrative law judge to direct a licensee found to have committed a violation or violations of  
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
13 enforcement of the case.

#### 14 FIRST CAUSE FOR DISCIPLINE

##### 15 **(November 8, 2011 Criminal Conviction for Caretaker Embezzlement From an Elder)**

16 13. Respondent has subjected her registration to discipline under sections 490 and 4301,  
17 subdivision (l) of the Code in that she was convicted of a crime that is substantially related to the  
18 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

19 a. On or about November 8, 2011, in a criminal proceeding entitled *People of the*  
20 *State of California v. Amandalina Marie Padilla*, in Riverside County Superior Court, case  
21 number INF1101755, Respondent was convicted on her plea of guilty to violating Penal Code  
22 section 368, subdivision (e), caretaker embezzlement from an elderly person, a felony. As a  
23 result of Respondent's plea bargain, the court dismissed additional felony counts of grand theft  
24 (Pen. Code, § 487, subd. (a)) and intent to defraud (Pen. Code, § 484g, Subd. (a)).

25 b. As a result of the conviction, on or about November 8, 2011, Respondent was  
26 granted 36 months formal probation, and sentenced to serve 180 days in the custody of the  
27 Riverside County Sheriff's work release program, with credit for one day. Respondent was  
28 further ordered to pay restitution to the victim in the amount of \$17,700. Respondent's probation

1 required she submit to a Fourth Amendment Waiver, participate in and complete a counseling or  
2 treatment program, to stay away from her victim, and not work as a caregiver.

3 c. The facts that led to the conviction are that on or about July 2, 2011, "Grace,"  
4 an 82-year-old woman with Parkinson's Disease, reported to the Palm Springs Police Department  
5 that she was the victim of theft. Respondent, who was one of Grace's caretakers, did not show up  
6 for work on June 26, 2011. The next day, Grace could not locate her ATM card. She called  
7 Wells Fargo to report her card missing and learned that it had been used to withdraw \$1,500 in  
8 cash, and purchases totaling \$172.37. Grace immediately canceled her card. She told the officer  
9 that she believed Respondent was responsible for the theft of her ATM card and the unauthorized  
10 withdrawals.

11 d. On July 14, 2011, an investigator went to Wells Fargo and obtained  
12 photographs taken at ATM machines at the time the card was used. Grace identified the woman  
13 in the photographs as Respondent. The investigator traced Respondent to an address provided by  
14 her former employer. On July 18, 2011, Respondent was interviewed by investigators.  
15 Respondent stated that she had been taking care of Grace off and on for the last couple of years.  
16 She initially denied stealing the ATM card, but when she was confronted with the photographs  
17 taken at the ATM machines, Respondent admitted she was the person in the photographs.  
18 Respondent further admitted stealing 3-5 items of jewelry from Grace, including a Cartier watch,  
19 and pawning them for cash which she spent on items for herself and to "have fun."

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit & Corruption)**

22 14. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the  
23 Code in that while employed as a caretaker for an elderly disabled woman, as described in  
24 paragraph 13, above, Respondent entered the woman's residence and intentionally stole multiple  
25 pieces of personal property, and approximately \$1,600 from the woman's bank account, acts  
26 involving moral turpitude, dishonesty, fraud, deceit and corruption.

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1 **PRAYER**

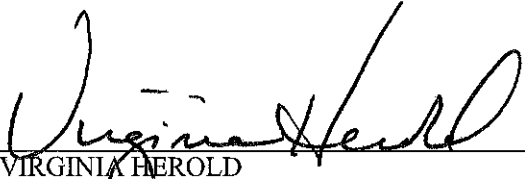
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Pharmacy issue a decision:

4 1. Revoking or suspending Pharmacy Technician Registration Number TCH 87325,  
5 issued to Amandalina Marie Padilla;

6 2. Ordering Amandalina Marie Padilla to pay the Board of Pharmacy the reasonable  
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
8 Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

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12 DATED: 5/4/12

  
13 VIRGINIA HEROLD  
14 Executive Officer  
15 Board of Pharmacy  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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